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## NEWS RELEASE

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### **Wen Ho Lee Indicted for Violating the Atomic Energy Act of 1954 and for Unlawful Gathering and Retention of National Defense Information**

Albuquerque, New Mexico -- United States Attorney John J. Kelly announced today the return of an indictment against Wen Ho Lee, of White Rock, New Mexico. Lee, age 59, is an engineer formerly employed in the X Division at Los Alamos National Laboratory.

On December 10, 1999, a federal grand jury in Albuquerque returned a 59-count indictment, charging Wen Ho Lee with violations of the Atomic Energy Act of 1954. As required by law, the indictment was authorized earlier this week by U.S. Attorney General Janet Reno. The indictment alleges that Wen Ho Lee tampered with, altered, and concealed classified information concerning the design, construction, use, and testing of nuclear and thermonuclear weapons while that information resided on the computer system at Los Alamos National Laboratory (LANL). The indictment further alleges that Lee unlawfully acquired and removed classified information from the Common File System at LANL by downloading the information onto portable computer tapes. In

addition to these violations of the Atomic Energy Act, the indictment alleges that Lee's activities described above constitute the unlawful gathering and retention of national defense information in violation of the Federal Espionage Act.

According to the indictment, Los Alamos National Laboratory is responsible for the safe stewardship of a substantial portion of the U.S. nuclear arsenal. The X Division at Los Alamos has responsibility for the research, design, and development of thermonuclear weapons. Located within X Division is the most sensitive nuclear weapons data and information possessed by the United States, information that, if improperly handled or disclosed, could cause serious damage to the national security. The indictment alleges that, between 1980 and December 23, 1998, Wen Ho Lee was an engineer assigned to X Division, with access to secret restricted data about the design specifics, construction, and testing of U.S. thermonuclear weapons.

The indictment alleges that in 1993 and 1994, Lee knowingly assembled 19 collections of files, called tape archive (TAR) files, containing secret and confidential restricted data relating to atomic weapon research, design, construction, and testing. Lee is alleged to have gathered and collected this information from the secure, classified Los Alamos computer system, moved it to an unsecure, "open" computer, and then later downloaded 17 of the 19 classified TAR files to nine portable computer tapes. In addition, the indictment alleges that in 1997 Lee downloaded directly from the classified system to a tenth portable computer tape current nuclear weapons design codes, auxiliary libraries, and utility codes necessary to compare computer generated, calculated results with actual test data. Seven of the tapes Lee made remain unaccounted for as of the date of the indictment.

The indictment includes 29 counts charging violation of Title 42, United States Code, Section 2276 -- the unlawful tampering, altering, concealing or removing of Restricted Data -- and 10 counts

charging violation of Title 42, United States Code, Section 2275 -- the unlawful receipt or acquisition of Restricted Data. (The term "Restricted Data" means all data concerning: 1) design, manufacture, or utilization of atomic weapons; 2) the production of special nuclear material; or 3) the use of special nuclear material in the production of energy.) In addition, the indictment contains 10 counts charging violation of Title 18, United States Code, Section 793(c) -- the unlawful gathering of national defense information -- and 10 counts charging violation of Title 18, United States Code, Section 793(e) -- the unlawful retention of national defense information.

The classified Restricted Data that Lee is alleged to have unlawfully collected and removed includes:

- Data files that contain information relating to the physical and radioactive properties of materials used to construct nuclear weapons;
- Input deck/input file information that includes descriptions of the exact dimensions and geometry of nuclear weapons that are used in connection with the design and simulated testing of nuclear weapons, and the computer instructions to set up a simulated nuclear weapons detonation;
- Source codes used for determining by simulation the validity of nuclear weapons designs and for comparing bomb test results with predicted results;
- Nuclear bomb testing protocol libraries reflecting the data collected from actual tests of nuclear weapons;
- Data concerning nuclear bomb test problems, yield calculations, and other nuclear weapons design and detonation information; and
- Computer programs necessary to run the design and testing files.

U.S. Attorney Kelly said today, "This case is being prosecuted because Wen Ho Lee has denied the United States its exclusive dominion and control over some of this nation's most sensitive nuclear secrets. Although Lee has not been charged with communicating classified information to a foreign power, the mishandling of classified information alleged in the indictment has, in the government's view, resulted in serious damage to important national interests." Kelly emphasized, however, "The indictment does not allege that Lee passed classified information to any particular foreign government, including the People's Republic of China."

David Kitchen, Special Agent in Charge of the Albuquerque Field Office of the FBI, stated, "The indictment against Wen Ho Lee concludes this phase of an enormous investigative effort. This could not have been achieved without the full cooperation of the Department of Energy and Los Alamos National Laboratory, as well as the support of the United States Attorney's Office and the Department of Justice. This investigation, with its inherent complexities, illustrates our ability to investigate effectively in the cyber-arena. The investigative team in this case has conducted more than 1,000 interviews, searched more than 1,000,000 computer files, and examined more than four terabytes of data. The FBI's Computer Analysis Response Team and the Department of Energy produced superb results in what can only be described as a true partnership. Director Browne deserves great credit for this help."

U.S. Attorney Kelly congratulated the FBI on an extraordinarily successful ten-month investigation. "The FBI is at its best in investigations like this. Without the breadth of resources of the Bureau, including specifically the National Infrastructure Protection Center, this case would not have been possible. I want to personally thank Director Louis Freeh and the agents in the FBI for their outstanding work in this investigation."

If convicted of any count under the Atomic Energy Act, Lee faces a maximum penalty of imprisonment for any term of years or life and a \$250,000 fine. If convicted of any of the Federal Espionage Act counts, Lee faces a maximum sentence of 10 years imprisonment and a \$250,000 fine.

The Lee case will be tried in Federal District Court, Albuquerque, New Mexico. First Assistant United States Attorney Robert J. Gorence will be the lead trial prosecutor. He will be assisted by Supervisory Assistant United States Attorney Paula Burnett, Assistant United States Attorney Laura Fashing, and Michael G. Liebman, a trial attorney with the Internal Security Section of the Criminal Division, U.S. Department of Justice.

The indictment is merely an accusation, and the defendant is presumed innocent unless proven guilty.

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